

IC 6-3.1-10

Chapter 10. Enterprise Zone Investment Cost Credit

IC 6-3.1-10-1**"Enterprise zone" defined**

Sec. 1. As used in this chapter, "enterprise zone" means an enterprise zone created under IC 4-4-6.1.

As added by P.L.9-1986, SEC.8.

IC 6-3.1-10-1.7**"Pass through entity" defined**

Sec. 1.7. As used in this chapter, "pass through entity" means:

- (1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) a partnership;
- (3) a limited liability company; or
- (4) a limited liability partnership.

As added by P.L.57-1996, SEC.1.

IC 6-3.1-10-2**"Qualified investment" defined**

Sec. 2. As used in this chapter, "qualified investment" means the purchase of an ownership interest in a business located in an enterprise zone if the purchase is approved by the department of commerce under section 8 of this chapter.

As added by P.L.9-1986, SEC.8. Amended by P.L.379-1987(ss), SEC.8.

IC 6-3.1-10-2.5**"SIC Manual" defined**

Sec. 2.5. As used in this chapter, "SIC Manual" refers to the current edition of the Standard Industrial Classification Manual of the United States Office of Management and Budget.

As added by P.L.379-1987(ss), SEC.9. Amended by P.L.24-1995, SEC.23.

IC 6-3.1-10-3**"State tax liability" defined**

Sec. 3. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax), as computed after the application of the credits that, under IC 6-3.1-1-2, are to be applied before the credit provided by this chapter.

As added by P.L.9-1986, SEC.8.

IC 6-3.1-10-4**"Taxpayer" defined**

Sec. 4. (a) As used in this chapter, "taxpayer" means any individual that has any state tax liability.

(b) Notwithstanding subsection (a), for a credit for a qualified

investment in a business located in an enterprise zone in a county having a population of more than one hundred five thousand (105,000) but less than one hundred ten thousand (110,000), "taxpayer" includes a pass through entity.

As added by P.L.9-1986, SEC.8. Amended by P.L.24-1995, SEC.24; P.L.57-1996, SEC.2; P.L.170-2002, SEC.23.

IC 6-3.1-10-5

"Transfer ownership" defined

Sec. 5. As used in this chapter, "transfer ownership" means to purchase existing investment in a business, including real property, improvements to real property, or equipment.

As added by P.L.9-1986, SEC.8.

IC 6-3.1-10-6

Credit for qualified investment; amount

Sec. 6. (a) A taxpayer is entitled to a credit against the taxpayer's state tax liability for a taxable year if the taxpayer makes a qualified investment in that taxable year.

(b) The amount of the credit to which a taxpayer is entitled is the percentage determined under section 8 of this chapter multiplied by the price of the qualified investment made by the taxpayer during the taxable year.

As added by P.L.9-1986, SEC.8.

IC 6-3.1-10-6.5

Pass through entity; credit

Sec. 6.5. (a) If a pass through entity is entitled to a credit under section 6 of this chapter but does not have state tax liability against which the tax credit may be applied, an individual who is a shareholder, partner, or member of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

(b) The credit provided under subsection (a) is in addition to a tax credit to which a shareholder, partner, or member of a pass through entity is otherwise entitled under this chapter. However, a pass through entity and an individual who is a shareholder, partner, or member of the pass through entity may not claim more than one (1) credit for the same investment.

As added by P.L.57-1996, SEC.3.

IC 6-3.1-10-7

Carryover of excess credit

Sec. 7. (a) If the amount determined under section 6(b) of this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to the following taxable years. The amount of the credit

carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year.

(b) A taxpayer is not entitled to a carryback or refund of any unused credit.

As added by P.L.9-1986, SEC.8.

IC 6-3.1-10-8

Qualifying for credit; request for determination; findings; certification of credit percentage; application of credit on transfer of ownership

Sec. 8. (a) To be entitled to a credit, a taxpayer must request the department of commerce to determine:

- (1) whether a purchase of an ownership interest in a business located in an enterprise zone is a qualified investment; and
- (2) the percentage credit to be allowed.

The request must be made before a purchase is made.

(b) The department of commerce shall find that a purchase is a qualified investment if:

- (1) the business is viable;
- (2) the business has not been disqualified from enterprise zone incentives or benefits under IC 4-4-6.1;
- (3) the taxpayer has a legitimate purpose for purchase of the ownership interest;
- (4) the purchase would not be made unless a credit is allowed under this chapter; and
- (5) the purchase is critical to the commencement, enhancement, or expansion of business operations in the zone and will not merely transfer ownership, and the purchase proceeds will be used only in business operations in the enterprise zone.

The department may delay making a finding under this subsection if, at the time the request is filed under subsection (a), an urban enterprise zone association has made a recommendation that the business be disqualified from enterprise zone incentives or benefits under IC 4-4-6.1 and the enterprise zone board has not acted on that request. The delay by the department may not last for more than sixty (60) days.

(c) If the department of commerce finds that a purchase is a qualified investment, the department shall certify the percentage credit to be allowed under this chapter based upon the following:

- (1) A percentage credit of ten percent (10%) may be allowed based upon the need of the business for equity financing, as demonstrated by the inability of the business to obtain debt financing.
- (2) A percentage credit of two percent (2%) may be allowed for business operations in the retail, professional, or warehouse/distribution codes of the SIC Manual.
- (3) A percentage credit of five percent (5%) may be allowed for business operations in the manufacturing codes of the SIC Manual.

(4) A percentage credit of five percent (5%) may be allowed for high technology business operations (as defined in IC 4-4-6.1-1.3).

(5) A percentage credit may be allowed for jobs created during the twelve (12) month period following the purchase of an ownership interest in the zone business, as determined under the following table:

JOBS CREATED	PERCENTAGE
Less than 11 jobs	1%
11 to 25 jobs	2%
26 to 40 jobs	3%
41 to 75 jobs	4%
More than 75 jobs	5%

(6) A percentage credit of five percent (5%) may be allowed if fifty percent (50%) or more of the jobs created in the twelve (12) month period following the purchase of an ownership interest in the zone business will be reserved for zone residents.

(7) A percentage credit may be allowed for investments made in real or depreciable personal property, as determined under the following table:

AMOUNT OF INVESTMENT	PERCENTAGE
Less than \$25,001	1%
\$25,001 to \$50,000	2%
\$50,001 to \$100,000	3%
\$100,001 to \$200,000	4%
More than \$200,000	5%

The total percentage credit may not exceed thirty percent (30%).

(d) If all or a part of a purchaser's intent is to transfer ownership, the tax credit shall be applied only to that part of the investment that relates directly to the enhancement or expansion of business operations at the zone location.

As added by P.L.9-1986, SEC.8. Amended by P.L.379-1987(ss), SEC.10; P.L.289-2001, SEC.13.

IC 6-3.1-10-9

Claiming credit

Sec. 9. To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department of state revenue. The taxpayer shall submit to the department of state revenue the certification of the percentage credit by the department of commerce and all information that the department of state revenue determines is necessary for the calculation of the credit provided by this chapter and for the determination of whether an investment cost is a qualified investment cost.

As added by P.L.9-1986, SEC.8.